

HOUSE BILL 256

Introduced by Cohen, et al.

1/17	Introduced
1/18	Referred to Taxation
1/19	Fiscal Note Requested
1/24	Fiscal Note Received
1/26	Fiscal Note Printed
2/10	Hearing
	Died in Committee

1 House BILL NO. 256
2 INTRODUCED BY John Atty
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A LOCAL
5 GOVERNMENT TO IMPOSE A LOCAL OPTION TAX UNDER THE LODGING
6 FACILITY USE TAX; PROVIDING FOR THE DISTRIBUTION OF THE TAX
7 PROCEEDS; PROVIDING FOR STATUTORY APPROPRIATION; AMENDING
8 SECTIONS 15-65-111 AND 17-7-502, MCA; AND PROVIDING AN
9 EFFECTIVE DATE."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 15-65-111, MCA, is amended to read:

13 "15-65-111. Tax rate -- local option lodging facility
14 use tax. (1) There is imposed on the user of a facility a
15 tax at a rate equal to 4% of the accommodation charge
16 collected by the facility.

17 (2) (a) Subject to the provisions of [section 2], a
18 local government may impose on the user of a facility within
19 its jurisdiction a tax at a rate of 2% of the accommodation
20 charge collected by the facility.

21 (b) A local facility tax is collected and reported at
22 the same time and in the same manner as provided under
23 15-65-112.

24 (c) After conducting a public hearing, a local
25 government may, before July 1 of the fiscal year, impose a

1 local lodging facility use tax effective for that fiscal
2 year.

3 ~~(2)~~(3) Accommodation charges do not include charges
4 for rooms used for purposes other than lodging."

5 **NEW SECTION. Section 2.** Distribution of local option
6 lodging facility use tax proceeds. (1) The department of
7 revenue shall return the proceeds from the tax imposed by
8 15-65-111(2)(a) to the jurisdiction where they were
9 collected, except:

10 (a) the amount for refunds; and

11 (b) the costs of administering the tax, not exceeding
12 2% of the amount collected in each jurisdiction.

13 (2) If a county imposes a local option lodging
14 facility use tax, the proceeds must be distributed to:

15 (a) the municipality in the county in which the tax
16 was collected; or

17 (b) if the tax was collected in an unincorporated area
18 of the county, to the county in which the tax was collected.

19 (3) A municipality may impose a local option lodging
20 facility use tax only if it is in a county that does not
21 impose a facility tax. Except as provided in subsection (1),
22 all proceeds must be distributed to the municipality that
23 imposes the tax.

24 (4) The revenue received under subsection (2) or (3)
25 may be used for law enforcement purposes associated with

increased tourism in a local area.

(5) The distributions made under subsections (1) through (3) are statutory appropriations as defined in 17-7-502.

Section 3. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-31-702; 15-36-112; 15-65-121; [section 2]; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;

19-11-606; 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; 23-5-1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103; section 13, House Bill No. 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3): pursuant to sec. 15, Ch. 607, L. 1987, the inclusion of 15-65-121 terminates June 30, 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991; and pursuant to sec. 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L. 1987, terminates July 1, 1988.)"

NEW SECTION. Section 4. Extension of authority. Any existing authority to make rules on the subject of the

1 provisions of [this act] is extended to the provisions of
2 [this act].

3 NEW SECTION. **Section 5.** Codification instruction.
4 [Section 2] is intended to be codified as an integral part
5 of Title 15, chapter 65, and the provisions of Title 15,
6 chapter 65, apply to [section 2].

7 NEW SECTION. **Section 6.** Effective date. [This act] is
8 effective July 1, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB 256, Version: Introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act authorizing a local government to impose a local option tax under the lodging facility use tax; providing for the distribution of the tax proceeds; providing for statutory appropriation; and providing an effective date.

ASSUMPTIONS:

1. The state level accommodation tax is estimated to be \$4,934,000 in FY90 and \$5,196,000 in FY91 (REAC), at 4% of lodging receipts.
2. The local option tax allows local governments to impose a 2% tax effective July 1, 1989. The receipts from this first quarter of tax would not be received until the second quarter of FY90, since lodging facilities have until 30 days after the quarter's end to submit the tax to the Department. Therefore, the revenue received during FY90 would reflect only the first three quarters of the lodging tax. For FY88, which also experienced this start-up delay, 73.5% of the receipts were received in these first three quarters.
3. The local option tax is estimated to raise a maximum of \$1,813,245 in FY90, and \$2,598,000 in FY91, if approved by all local jurisdictions.
4. Current law accommodation tax expenditures will be \$98,532 in FY90 and \$97,692 in FY91 (OBPP Budget Recommendation).
5. Two percent of the local option tax is statutorily appropriated to the Department of Revenue for administration. Therefore, 98% of the tax would be distributed to the appropriate county and/or municipal government.
6. Increased administrative expenses will be funded within the 2% statutory appropriation. The expenditure impact shows the maximum impact.

FISCAL IMPACT:

Revenue Impact:	FY '90			FY '91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Accommodations Tax	\$4,934,000	\$6,747,245	\$1,813,245	\$5,196,000	\$7,794,000	\$2,598,000

EXPENDITURE IMPACT:

Accommodations Tax						
Administration	\$ 98,532	\$ 134,797	\$ 36,265	\$ 97,692	\$ 149,652	\$ 51,960

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Estimated potential revenue for local government for FY90 is \$1,776,780 and for FY91 is \$2,546,040.

Ray Shackelford 1/24/89
 RAY SHACKLEFORD, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

BEN COHEN 1/25/89
 BEN COHEN, PRIMARY SPONSOR DATE

Fiscal Note for HB256, as introduced

HB 256

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TECHNICAL OR MECHANICAL DEFECTS OR CONFLICT WITH EXISTING LEGISLATION:

The effective date of the proposal is July 1, 1989, but the local governments must hold a public hearing and impose the tax prior to July 1 if it opts for this proposal. In the year of implementation, counties may lack authority to follow the required procedure prior to the proposal being effective.

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